

VEHICULAR MANSLAUGHTER CASE

Grover Beach Police Department

The Grover Beach Police Department is required to respond to all findings and recommendations The San Luis Obispo County District Attorney is required to respond to all findings and recommendations..

Grand Jury Finding 1 The GB police officer on patrol at the time arrived within two minutes of the accident.

Grand Jury Finding 2 The San Luis Obispo Ambulance Service was requested at 9:06 p.m., arriving at 9:10, to provide medical attention and to transport the seriously injured victim to Arroyo Grande Hospital (AGH). A second ambulance, summoned at 9:12 p.m., arrived at 9:17, took the other victim to AGH where she was treated and released.

Grand Jury Finding 3 The GB responding officer interviewed and took statements from five witnesses at the site of the accident.

Grand Jury Finding 4 The GB officer interviewed the driver and administered a preliminary alcohol breath test, then released him.

Grand Jury Finding 5 When another GB police officer came on duty, that officer went to the driver's home, and at 10:11 p.m., took him to AGH to obtain a blood sample.

Grand Jury Finding 6 Neither the first-responding GB police officer, nor his watch commander on duty at the time of the accident, had the training required to issue a citation at the scene of the accident unless he had witnessed the accident.

Grand Jury Finding 7 A Pismo Beach police officer with advanced traffic accident training arrived at 9:57 p.m. and assisted with the investigation, as requested by GB police.

Grand Jury Finding 8 The GB police officer's report did not indicate any adverse weather or lighting conditions as contributing causes of the accident.

Grand Jury Finding 9 The police report showed no tire skid marks on the pavement.

Grand Jury Finding 10 The GBPD impounded the vehicle and arranged for a full inspection.

Grand Jury Finding 11 The GB officer and a police volunteer took photos that night, and later, during the accident reconstruction.

Grand Jury Finding 12 On September 10, 2002, the GBPD requested that California Highway Patrol Multidisciplinary Accident Investigation Team (MAIT) inspect the vehicle. MAIT inspected the vehicle on September 12, 2002.

Grand Jury Finding 13 MAIT's vehicle inspection ruled out malfunction as a cause of the accident.

Grand Jury Finding 14 September 11, 2002, four days after the accident, the seriously injured victim died from the injuries she had sustained.

Grand Jury Finding 15 On September 24, 2002, the GBPD submitted a complete report in triplicate - including accident details, photos, medical reports, and witness statements - to the SLO County DA Office.

Grand Jury Finding 16 The GB police accident report recommended that the DA review the report for possible prosecution of the driver for violation of *Penal Code Section 192(C)*, vehicular manslaughter without gross negligence, and *Vehicle Code Section 21950(a)*, pedestrian right of way at a crosswalk.

Grand Jury Finding 17 After submitting its report to the DA's Office, GBPD considered its task complete. Per the department's standard operating procedure, police personnel did not make any further inquiries about the case or the possible prosecution of the driver.

RECOMMENDATIONS:

Recommendation 1 The GBPD should make every reasonable effort to train additional field personnel so that citations may be written at the scene, when appropriate.

Grover Beach Police Department Response: All field personnel have been sent to a 40 hour traffic school that enables them to write a citation at a traffic collision scene if appropriate. In this case it would have been inappropriate to write a citation. A serious accident was under investigation that would take several weeks to complete. When citations are issued it is because the investigation is done at the scene, there is no additional follow-up and a violation has been committed. This case is a perfect example of why a citation should not be issued because it raises the spectrum of double jeopardy for the following reasons:

- A. Citation issued.
- B. Violator goes to court and pays fine for minor offense.
- C. District Attorney files major case against violator.
- D. Violator has major case dismissed because he has already plead to a lesser included charge and "double jeopardy" applies.

For your information, there were supervisors at the scene and an Advanced Traffic Reconstruction Officer from Pismo Beach, who could have issued a citation if it had been

appropriate or necessary. The Chief, Lieutenant and Sergeant at the scene did not consider a citation as an option due to the seriousness of the accident and the ongoing investigation. A check with the experts in this field, the California Highway Patrol, confirmed that the issuing of a citation in this incident would have been inappropriate.

Recommendation 2 In future cases involving death or serious injury, the GBPD should routinely follow up and inquire of the DA as to the status of the case.

Grover Beach Police Department Response: This is the first time this has occurred. The District Attorney's office has set up a new monitoring system so it will not occur again. Traffic cases often take considerable time to reach a filing state because of their complexity. Our traffic unit will monitor such cases in the future and will make inquiries after a month.

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District Attorney's Response

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PART ONE

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PART TWO

SECTION A

Findings:

Grand Jury Finding 1 The Filing Deputy had opportunity to examine the file in late September 2002.

District Attorney Department Response: The department agrees.

Grand Jury Finding 2 The file remained in the Filing Deputy's office for six months without the knowledge of senior DA personnel due, in part, to the lack of a tracking system.

District Attorney Department Response: 2. The department partially disagrees with Finding No. 2 to the extent that it determined that "a tracking system" was not in place for misdemeanor cases.

Since 1989 the department has had an automated case management and tracking system for both the approximately 16,000 misdemeanor and 1,700 felony cases the department handles annually. (This system, known as "LD," is electronically linked with the automated case tracking systems used by the superior court, the sheriff's department and the probation department.) The LD system records information on each case from the point in time when law enforcement incident reports initially enter our office through the point in time that the case is concluded.

During the past 15 years the department has developed a variety of weekly, monthly, quarterly, and annual management reports based on the information in this case tracking system. However, one monthly management report which the department did not have in place until September of 2003 was a report on cases which were pending a filing decision. It is this "Pending Cases" monthly management report to which Finding No. 2 may also refer and with which the department agrees.

Grand Jury Finding 3 The Filing Deputy did not act on the case, to either file or decline to file, during the six months the case remained on his desk.

District Attorney Department Response: The department agrees.

Grand Jury Finding 4 He did not seek advice of the Chief Deputy DA or the DA after he read the file.

District Attorney Department Response: The department agrees.

Grand Jury Finding 5 He did not discuss with other DAs, before March 26, 2003, any perceived problem about filing.

District Attorney Department Response: The department agrees.

Grand Jury Finding 6 Each time the victim's mother requested to speak to him he declined. He chose to communicate through the victim's family's attorney.

District Attorney Department Response: The department agrees.

Grand Jury Finding 7 The Chief Deputy, on March 26, 2003, directed the Filing Deputy by saying, "You need to file this case." It was then that the Filing Deputy said he first noticed a document from the tax collector's office bearing the name of the driver's father.

District Attorney Department Response: The department agrees.

Grand Jury Finding 8 The Chief Deputy, acting on this possible conflict, contacted the AG Office in Los Angeles, asking that office to review the file.

District Attorney Department Response: The department agrees.

Grand Jury Finding 9 The Senior Assistant AG stated that the case did not meet the usual parameters of conflict, but would take it as a courtesy.

District Attorney Department Response: The department agrees.

Grand Jury Finding 10 GJ investigation of Pension Trust Fund minutes of January 26, 1998 through July 28, 2003, travel vouchers, conference expenses, and Auditor/Controller records of the past five years did not expose any connections that suggested a conflict between the Filing Deputy and the County Tax Collector, despite their serving on that same committee.

District Attorney Department Response: The department agrees.

RECOMMENDATIONS:

Recommendation 1 The DA's Office should track all cases, starting from the time a file comes to the office, rather than when the deputy files it. [The new *Pending Cases (Neither Filed or Rejected)* does this tracking now.]

District Attorney Department Response: 1. The recommendation has been implemented.

As noted above in response to Finding No. 2, for the past 15 years the department has had an automated system which tracks our cases from the point in time that they first enter the office. This automated case management system encompasses both felony and misdemeanor cases.

In addition, two reports have been either modified or developed to help management monitor vehicular manslaughter cases, specifically, and any other cases awaiting filing review. One report, the weekly "High Misdemeanor Report," was modified to include all misdemeanor vehicular manslaughter cases submitted to the office for complaint review on which criminal charges have neither been filed nor rejected. In addition, a new monthly report listing any case that is pending filing review was finalized in September 2003 and is reviewed on a monthly basis by the Chief Deputy and the Assistant District Attorney.

(This "Pending Cases" report is the management report noted in the Grand Jury's postscript to recommendation No. 1.)

Recommendation 2 Encourage Deputy DAs to seek input of each other and of their superiors regarding problematic and difficult cases.

District Attorney Department Response: . The recommendation has been implemented

Although attorney consultation on this particular case was inadequate, our office has customarily promoted peer and supervisor input regarding case decisions. For example, during our regularly scheduled felony, misdemeanor and specialty team meetings, and by means of other written policies, the need for deputies to seek peer and supervisor input in pending cases has been routinely encouraged.

In order to enhance that practice, written protocols for filing procedures in vehicular manslaughter cases were issued to staff on December 11, 2003 and on April 16, 2004. These protocols, among other things, direct the complaint review deputies to consult with their supervisors in these serious cases.

Recommendation 3 The Grand Jury recognizes that this is a small county and therefore many people in county government know each other. This makes it even more imperative that the DA's Office identifies conflicts early on in their handling of criminal cases.

District Attorney Department Response: The recommendation has been implemented.

The District Attorney's Office identifies several cases per year which may pose potential conflicts and, as a result, consults with the California Attorney General's Office in accordance with the intent of Government Code Section 12550.

To provide additional guidance and direction to all staff on this issue, the District Attorney's Office recently distributed an office-wide memo entitled, "Early Recognition of Potential Conflicts of Interest." By this memo the office has pro-actively reminded all staff to report any possible conflicts as early as possible.

Note: The department, however, disagrees with one of the conclusions preceding this recommendation. Conclusion 10 (page 9) reads in pertinent part:

"10) News articles, for example, were printed at the time of the accident in local newspapers in which the driver was named. News articles in December 2002 identified the driver as the son of the County Tax Collector."

A review by our office has not been able to locate any of these December 2002 news articles.

Recommendation 4 The DA's Office should substantiate claims of conflict of interest more carefully before referring cases elsewhere.

District Attorney Department Response: The recommendation will be implemented partially.

The State Attorney General is the supervising agency for the 58 elected District Attorneys. When a possible conflict is discovered, the District Attorney's Office is expected to contact the Attorney General's Office for consultation. The determination of prosecuting agency will then be made after careful consultation between the Attorney General's Office and the District Attorney's Office.

SECTION B.

Grand Jury Finding 1 Only felony cases were trackable at the time.

District Attorney Department Response: The department disagrees with the finding. Please see the response to Part Two, A, Finding 2 (on page 1).

Grand Jury Finding 2 Communication within the DA's Office regarding this file was insufficient.

District Attorney Department Response: The department agrees with the finding.

RECOMMENDATIONS:

Recommendation 1 The Chief Deputy should periodically evaluate the computer programs designed and implemented for tracking high misdemeanor (red dot) cases and the new pending cases, now that such tracking is available.

District Attorney Department Response: The recommendation has already been implemented.

The weekly high misdemeanor (red dot) tracking report has been utilized by the Chief Deputy for many years and will continue to be reviewed by the Chief Deputy now that it has been modified to include misdemeanor vehicular manslaughter cases pending filing. In addition, the newer "Pending Cases" report is reviewed on a monthly basis by both the Chief Deputy and the Assistant DA.

Recommendation 2 The Chief Deputy DA should exercise closer control/oversight of deputies' caseloads to monitor status of cases.

District Attorney Department Response: The recommendation has already been implemented by utilizing the two management reports referred to above.

Recommendation 3 Management should take a more assertive role in supervising employees of the DA's Office and take corrective action when needed.

District Attorney Department Response: The recommendation has already been implemented.

Specific corrective action has been taken concerning this case and will be taken in future cases. Moreover, an enhanced oversight role by supervisors has been implemented through the modification and creation of the weekly and monthly management reports and through the office memoranda previously mentioned, as well as the two protocols concerning vehicular manslaughter cases

SECTION C.

Grand Jury Finding 1 At the time of the accident, Victim Witness lacked policy for discussing with victims' family where death is involved. [New policy addresses this.]

District Attorney Department Response: The department partially disagrees with the Finding.

While in the past there was no formal, written protocol for Victim/Witness to contact a deceased victim's next of kin, historically the Victim/Witness Division has followed a practice of contacting a victim's-next of kin in a case where a fatality results from a crime or an apparent crime. Standard practice has included: outreach by Victim/Witness to the victims or next of kin in felony cases within 72 hours of Victim/Witness notification of the case; and outreach by Victim/Witness to victims or next of kin in misdemeanor cases within a week of Victim/Witness notification of the case.

For crimes still under investigation by an outside law enforcement agency, Victim/Witness contact with victims is normally initiated: 1) at the request of the investigating law enforcement agency; 2) in response to a request for services by a victim or a victim's next of kin; or 3) through Victim/Witness knowledge of the crime from miscellaneous sources, including the media.

As noted in the Grand Jury's report, in an effort to enhance existing procedures while cases are pending a filing review, formal written protocols have been issued for responding to cases resulting in fatalities, as noted on pages 2 and 4, above. Intra-office clerical intake procedures have also been enhanced to improve the timeliness of the delivery of crime report copies to Victim/Witness for notification of, and follow-up by, advocates. That procedure was formally modified on December 18, 2003 and has improved the consistency and timeliness of crime report copies to Victim/Witness and Victim/Witness responsiveness to crime victims.

Grand Jury Finding 2 Communication within the VW Office was insufficient in this case.

District Attorney Department Response: The department agrees.

Grand Jury Finding 3 The VW Assistant Director realized the father-son relationship of the County Tax Collector and the driver upon his review of the file.

District Attorney Department Response: The department agrees.

Grand Jury Finding 4 The victim's family did not receive support and VW advocacy until the case went to the AG's Office.

District Attorney Department Response: The department partially disagrees with the Finding.

In a case that remains under review for the filing of criminal charges, victim services are limited to crisis/direct counseling, responding to case status update inquiries, referrals for counseling, communication with management about the case, and a review of the victim's civil options. As noted above in Finding No. 2, communications within the Victim/Witness Division in this case were not what they should have been. However, Victim/Witness staff partially assisted the family by discussing counseling, informing the filing deputy about the family's dissatisfaction with the review process and communicating the family's requests to speak to him about the case.

Once the criminal complaint was issued, the full range of Victim/Witness services were offered to the family as prescribed by law.

RECOMMENDATIONS:

Recommendation 1 The director should schedule regular VW Division meetings for discussion of current cases among all advocates.

District Attorney Department Response: The recommendation has been implemented.

The Victim/Witness Director convenes monthly meetings with Victim/Witness personnel to review, among other things, division policies, procedures, and new legislation. In these meetings, a "roundtable" review of pending cases is part of the standard agenda. In addition to the monthly all-staff meetings, the smaller "teams" of advocates continue to meet on an as-needed basis to review cases and brainstorm problems which may arise.

To further improve communication among all levels of personnel, a formal weekly meeting with the Victim/Witness Director and the two Assistant Directors has recently been initiated to address any issues with programs or services, including the resolution of any problem cases or special victim issues

Recommendation 2 The division should develop guidelines to offer appropriate assistance to families of victims while waiting for the DA's decision to file or reject. [New procedure has been drafted and instituted as of December 11, 2003 as a result of this case.]

District Attorney Department Response: The recommendation has been implemented.

As noted in the Grand Jury's report, the recommendation has been enacted with the adoption and distribution of the December 2003 protocol. This protocol will enhance Victim/Witness responsiveness to cases involving a fatality. In addition, the development of a weekly report which reflects the status of high misdemeanor cases (including vehicular manslaughter cases) and the weekly distribution of that report to the Victim/Witness Director and the Chief Deputy will further enhance responsiveness.

Recommendation 3 Assistant directors should monitor DA intake data to assess need for VW intervention. [Also part of new procedure.]

District Attorney Department Response: The recommendation has been implemented.

The Victim/Witness Assistant Directors have routinely monitored cases and other miscellaneous sources of information (including the various media) in the past. And, as noted in the Grand Jury report, the new "Procedure for Vehicular Manslaughter Cases (and Other Cases Involving a Fatality)" was adopted and distributed to Victim/Witness personnel as of December 2003.

The development of the case aging report for "Pending Cases" and the revision to the clerical system of copying reports to Victim/Witness when they first arrive at the District Attorney's Office will serve as additional checks to the implemented procedure.

Recommendation 4 VW advocates should promptly notify the Chief Deputy DA when filing deputies are not responding in a timely manner to victim's requests.

District Attorney Department Response: The recommendation has been implemented.

This specific recommendation was implemented as part of the December 2003 procedure memorandum which states in pertinent part:

"Should Victim/Witness and Filing Deputy District Attorney contacts with the family not provide a satisfactory resolution in the opinion of the family, the Chief Deputy DA shall be notified and be available to also meet with the family."

In addition, that same procedure directs the Victim/Witness advocate to advise the Victim/Witness Director or Assistant Director of any problems or concerns related to these cases.

We are confident that these procedures along with our office's past practices will further ensure that victims' requests are communicated to the appropriate party for any further action that may be needed.

EL PASO de ROBLES YOUTH CORRECTIONAL FACILITY

El Paso De Robles Youth Authority and the Department of The California Youth Authority are required to respond to all findings and recommendations.

Grand Jury Finding 1 Expired medications are stored in the pharmacy.

El Paso De Robles YCF Response: The respondent agrees with the finding.

California Department of The Youth Authority Response: The facility took prompt action to remedy the concerns expressed in the findings of the Grand Jury. However, while not a finding, the report does negatively comment about not having immediate access to the pharmacy. While that statement is accurate, this delay in access was required under state law. As you are undoubtedly aware, pharmacy operations are strictly regulated. Under Title 16, California Code of Regulations, section 1714, only a pharmacist is allowed to have a key to the pharmacy. The only exception is a key stored for emergency use. The visit by a Grand Jury does not appear to be the type of "emergency" described in the regulation. In the future, I suggest that the Grand Jury obtain a copy of the pharmacist's work schedule so that any unannounced visit by the Grand Jury may occur at a time when we can legally provide immediate access to that portion of our facility.

Grand Jury Finding 2 Significant quantities of medications are not properly stored in the pharmacy.

El Paso De Robles CYA Response: The respondent agrees with the finding.

California Department of The Youth Authority Response: See Response #1.

RECOMMENDATIONS:

Recommendation 1 The El Paso de Robles Youth Authority should take advantage of available services to properly dispose of expired medications.

El Paso De Robles CYA Response: The recommendation has been implemented. Through consultation with the Department's Chief Medical Officer and Health Care Services division, a plan of action has been developed to remedy the problem.

Recommendation 2 Pharmaceuticals should be ordered on an as-needed basis and should be expeditiously inventoried and stored.

El Paso De Robles CYA Response: Through consultation with the Department's Chief Medical Officer and Health Care Services division, pharmacy staffing adjustments have been made and the problem has been remedied.

SAN LUIS OBISPO COUNTY PUBLIC WORKS

The San Luis Obispo County Board of Supervisors is required to respond to all findings and recommendations. The San Luis Obispo Public Works Department is required to respond to all findings and recommendations.

Grand Jury Finding 1 On March 27, 2003 the San Luis Obispo County Board of Supervisors sent a letter to the California Department of Water Resources (DWR) advising that SLO County was considering relinquishing responsibility for the Arroyo Grande Creek Flood Control Channel to the state.

County Public Works Response: Partially disagree. The March 27, 2003 letter was sent by the San Luis Obispo County Deputy Director of Public Works - Engineering Services, not by the Board of Supervisors. This letter was faxed to Stein Buer, Chief, Division of Flood Management, Department of Water Resources. The letter transmitted a copy of the April 1, 2003 Board of Supervisors agenda report regarding the relinquishment of the Arroyo Grande and Los Berros diversion flood control channels and structures to the State.

Grand Jury Finding 2 On March 28, 2003, a letter from the Chief of the DWR Division of Flood Control Management stated that relinquishment by San Luis Obispo County would not resolve the issue. The letter advised that the decision on how to best proceed should be done carefully with public dialogue.

County Public Works Response: Disagree. The letter does not state that "the relinquishment by San Luis Obispo County would not resolve the issue". The letter explains that maintenance by the State would be difficult and expensive. However, it goes on to state: "If the County of San Luis Obispo turns over the operation and maintenance of this project to the Department, we will perform that work to the best of our ability".

Grand Jury Finding 3 On April 1, 2003, the San Luis Obispo County Board of Supervisors adopted Resolution No. 2003-105 seeking to transfer responsibility for the Arroyo Grande Channel to the State. That item was not listed on the agenda posted at the SLO County Board of Supervisors website, and the item was passed as a consent agenda item without any public comment.

County Public Works Response: Partially disagree. The resolution did not "seek to transfer responsibility." It relinquished responsibility pursuant to California Water Code Section 12878. This relinquishment action was added as a corrigenda change to the previously published April 1, 2003 Board agenda because both district staff and the Board believed it was in the best interest of the Zone 1/1A property owners to adopt the relinquishment resolution as soon as possible, which was the April 1 Board meeting. The agenda item met all legal requirements to be included on the April 1, 2003 agenda and to be acted upon by the Board.

Grand Jury Finding 4 One week later on April 8, 2003, the Coastal San Luis Resource Conservation District (RCD) Board President and staff met with SLO County Public Works representatives. A Public Works representative informed the RCD Board President that the \$150,000 Alternative Analysis Study was "off the table" for the fiscal year 2002-2003. The county, believing that it was no longer responsible for any damage that may occur in the coming, or following rainy seasons, then opted not to reallocate funding for the study in the next fiscal year budget, beginning July 1, 2003.

County Public Works Response: Disagree. First, it should be noted that the synopsis was inaccurate in stating that the committee recommended the \$150,000 alternatives analysis study be funded initially. That study, and the funding request, was made by Flood Control District staff when preparing the Flood control budget for FY 2002-03. Second, the amount budgeted for the study was \$180,000, not \$150,000 as stated in the Grand Jury's report. Third, work on the study was terminated because there was no further compelling need for it. The purpose of the study was to provide an alternatives analysis for the Board of Supervisors to use in deciding how to best carry out the maintenance in the future, and to provide cost documentation for a future Proposition 218 election to approve funding for the chosen type of maintenance of the facilities.

The statement that the County no longer believes it is responsible for any damage that may occur in the coming, or following, rainy seasons is not accurate. No member of the Board of Supervisors, County Administration, or Public Works Management has ever made a statement or provided written documentation to that effect.

The study was not re-budgeted in the subsequent fiscal year because the scope of the proposed study was to analyze various scenarios for the maintenance, improvement, modification, and disposition of the facilities administered by Flood Control Zone 111A. One of the scenarios to be considered was to relinquish District responsibility for maintenance to DWR. Since the Board of Supervisors made the decision to do that relinquishment on April 1, 2003, there was no need to spend those Flood Control District funds to perform the alternatives analysis. Also, since the State is required, by the Water Code, to perform its own analysis of the extent and costs of maintenance, this study would, at least in part, have been redundant.

Further, the State is not subject to the requirement of voter approval of maintenance service charges, so there was no need to use such a study as a basis for a local Proposition 218 funding election.

In addition to all of these reasons why it was no longer prudent for the Board of Supervisors to fund the alternatives analysis, there were many other necessary and competing FY 2003-04 General Flood Control District budget requests, and the funding was budgeted for some of those other flood control needs.

Grand Jury Finding 5 On June 13 the DWR Chief of Flood Control Management sent a letter to the SLO County Department of Public Works acknowledging the receipt of the SLO County Resolution No. 2003-105. The State then told the County that such a jurisdictional transfer couldn't even be considered before July 2004, and possibly not until 2005 due to limited resources.

County Public Works Response: Partially disagree. The June 13 letter, from Rodney Mayer, Chief, Flood Control Management Office, Department of Water Resources, stated that DWR did not plan to move forward substantially on the relinquishment resolution until "around July 1, 2004". There was no reference in this letter to 2005.

Grand Jury Finding 6 Each agency says the other has the responsibility; neither is willing to do anything now. In the meantime, probability of floods causing serious damage to the property owners, the public, and the farmers increases significantly. Future lawsuits and any insurance claims against the county paid out will ultimately affect the county taxpayer.

County Public Works Response: Disagree. Although there is not agreement between the Flood Control District and the Department of Water Resources, regarding when the actual transfer of responsibility of the facilities will take place, the agencies are working cooperatively. The Flood Control District has continued to provide maintenance and repair for the channel facilities to the extent that funding is available. The State has been notified of, and has authorized, all of these activities since the Board acted to relinquish the maintenance responsibility.

Activities that have been done by the Flood Control District since responsibility was relinquished include emergency response and repair of levee damage caused by the earthquake of December 22, 2003; ongoing vegetation control work; and the approval on June 14, 2004 of a \$150,000 contribution from the Flood Control District's General Reserve funds toward the funding of a study of the entire creek watershed to be commissioned by the RCD.

It is not accurate to state, as the Grand Jury has, that "in the meantime, probability of floods causing damage to the property owners, the public, and the farmers increases significantly". Although the probability of flooding does continue to exist, it is no greater now than in 2001. The continuing drought conditions have caused little new sediment to accumulate and the work done by the County Public Works Department to repair the 2001 levee break slightly improved the channel capacity at that location. With regard to

liability to the County, it should be noted that this liability has been reduced by the Board's action to relinquish the facility to the State. The State now shares that liability.

As to the affect of future lawsuits on the county taxpayer, it should be understood that the County participates in a statewide insurance pool that covers most of the cost of the claims. The amounts actually paid by the County's self insurance fund are charged back to the Flood Control Zone 1 budget over several years. Therefore, the general taxpayers of the county are not impacted by damage claims.

Grand Jury Finding 7 Despite the position of the county on jurisdictional transfer, they were quick to respond after the earthquake of December 22, 2003. The following day the County Public Works Department contracted for repair of four earthquake-damaged locations on the Arroyo Grande channel levee. The county still maintains that it has turned over responsibility for maintenance and repair to the state.

County Public Works Response: Partially disagree. As stated above, responsibility for ownership and maintenance of the facilities was relinquished to the State on April 1, 2003. Because the State has been unable to actively take over operations as of yet, the District has, in the interest of public safety and under the authorization of the State, performed such maintenance and repair work as Zone 1 had the resources to fund. This included emergency actions related to the December 22, 2003 earthquake, which the County willingly performed starting the day after the earthquake. However, this important work was only done once permission from DWR was obtained to do so. This approach, which required DWR permission, was consistent with the County's position on the jurisdictional transfer -- not "despite" it, as stated in this finding.

Recommendation:

Recommendation: The Grand Jury recommends that the County Board of Supervisors establish a citizens' committee to meet with the appropriate congressional representatives to obtain their assistance in directing the Corps of Engineers to immediately undertake a flood control remediation project to resolve the Arroyo Grande Creek channel flooding problems.

County Public Works Response: The recommendation will not be implemented because, while the recommendation is well-intended, it is neither reasonable, nor warranted. The fallacies in the report recommendation are (1) the Corps has no program or funding for taking over local flood control project maintenance; and (2) elected representatives have no authority to direct the actions of any Federal agency.

The District, including members of the Flood Control Zone 111A Advisory Committee, have already met with Congressional Representatives with regard to facilitating communications with environmental regulatory agencies. The District has received help from the Corps in performing hydrologic studies of the channel flow capacity. This is the extent of the help that is available to the District from the Corps and from the congressional representatives.

The only avenue available for the District to seek a solution to this problem by involving another governmental agency is provided in section 12878.1 of the California Water Code. This code section provides that when the District declares, by resolution, that it no longer desires to operate and maintain the facilities, the State shall start the process to form a maintenance zone and take over maintenance of the facilities. This action was taken on April 1, 2003. There is no such statutory authorization for the engagement of the Army Corps of Engineers for ongoing maintenance.

SAN LUIS OBISPO COUNTY SOCIAL SERVICES

The San Luis Obispo County Board of Supervisors is required to respond to all findings and recommendations. The San Luis Obispo Social Services is required to respond to all findings and recommendations.

Grand Jury Finding 1 CWS is not sending a written SCAR within 36 hours of receiving reports of abuse or severe neglect to the agency to which it made a telephone report in accordance with Penal Code §11165.7(h). Law enforcement and the district attorney's office are receiving the SCARs longer than three days and frequently more than a week later.

County Social Services Response: The Department disagrees partially with this finding. The Penal Code citation is incorrect. We believe the Grand Jury may have intended to reference Penal Code Section 11166 (h) in this finding. In emergency cases, i.e., immediate response cases as defined in statute, the Department cross-reports to Law Enforcement immediately. In the past, several local law enforcement jurisdictions had requested that the Department not fax or mail the written SCARs as they were too difficult to read. Most Law Enforcement agencies requested that we wait until the computer copy was generated. This does cause a lag time.

Grand Jury Finding 2 Some law enforcement agencies do not receive immediate telephone calls on incidents for which they later receive a SCAR.

County Social Services Response: The Department agrees with this finding.

The Department needs to meet with the various law enforcement agencies to determine how they would like to receive calls, as this will represent a significant workload issue for them. The Department may receive in excess of thirty telephone calls daily, and immediate phone cross reporting would have an impact both on the Department and on those law enforcement agencies.

As implied by the expression, "cross-reporting" responsibilities go both ways. Law enforcement agencies, too, would need to determine their capability of withstanding new expectations that would require them to cross-report immediately to the Department on every call they receive, irrespective of the perceived urgency of the report.

Grand Jury Finding 3 The CWS Desk Guide instructions do not specify that a SCAR is to be distributed to the district attorney as required in PC 11165.12 (c).

County Social Services Response: The Department disagrees partially with the finding. The Penal Code citation is incorrect. Perhaps the Grand Jury intended to cite Section 11166 (h). It is curious that the Grand Jury references Desk Guide instructions; the Department does not have a Desk Guide specific to this matter. Please refer to the response to Grand Jury's Recommendation (2), below.

Grand Jury Finding 4 When CWS determines that reports of sexual and physical abuse and severe neglect are unfounded or unsubstantiated, they do not distribute the written SCAR to the appropriate agencies. This appears to be in violation of PC §11166.

County Social Services Response: The Department wholly disagrees with this finding. The Penal Code Section citation is incorrect. The Department concludes that this finding probably refers to a completed investigation, not a SCAR. The requirement for reporting findings to law enforcement or to the District Attorney's office is embedded in the CWS/CMS system, and the referral cannot be closed without this section noted. We note also that PC Section 11166.3 (a) does not delineate between founded, unfounded or inconclusive findings.

Grand Jury Finding 5 Some law enforcement agencies are receiving SCARs that are not within their jurisdiction and must forward them to the appropriate agency. This is a time consuming activity and hinders the timely investigation by the appropriate agency.

County Social Services Response: The Department agrees with this finding. Mistakes do happen. Boundaries between jurisdictions are not always entirely clear; a family may have an address that suggests that they live within an incorporated city's police jurisdiction when, in fact, they live within the unincorporated area under jurisdiction of the Sheriff's Department. Because the Department has not heard any recent concerns of this nature from law enforcement agencies, it is surprised to read in the Grand Jury's report that there are some agencies receiving "up to 70 per month"--though the Grand Jury does not specify whether this figure refers to total reports or misdirected reports.

Grand Jury Finding 6 Some law enforcement agencies are receiving duplicate copies of SCARs, one initiated by the mandated reporter and one initiated by the CMS/CWS. Receiving duplicate SCARs for the same incident can be confusing and time consuming for the law enforcement agency.

County Social Services Response: The Department agrees with this finding. The Department has little control over what a Mandated Reporter may do with the copy of the written SCAR. The distribution instructions direct the Mandated Reporter to keep one copy and forward the remaining copies to the "Designated Agency." The Department endeavors to distribute the computer-generated SCARs to law enforcement within the 36-hour requirement. Frequently, a telephone referral is received by the Department, and is followed with a handwritten SCAR from the reporter. In these cases, the handwritten SCAR is received from the Mandated Reporter after we have sent off the Computer Generated SCAR. If the Department was to wait to send the handwritten and computer Generated SCARs together, the law enforcement agency likely would not receive either in a timely manner. If we send the Computer Generated SCAR timely, the original SCAR may not be available.

Grand Jury Finding 7 When a SCAR decision is made regarding a referral from a mandated reporter, CWS does not consistently send an acknowledgment of the outcome to the reporting party.

County Social Services Response: The Department agrees with this finding. Though this matter has been the subject of training and encouragement within the Department, it is apparent that the Department still is not consistently meeting the expectation. The Department believes that implementation of Differential Response, pursuant to the Child Welfare Redesign, will improve the Department's performance in this area.

Grand Jury Finding 8 Training for mandated reporters of child abuse and members of the child welfare delivery system is not regularly provided, as required in PC §16206.

County Social Services Response: The Department disagrees with the finding. The Penal Code citation is incorrect. We believe that the Grand Jury intended to cite Welfare and Institutions Code (WIC) Section 16206, that speaks to a statewide coordinated training. WIC Section 16205 states that the department will contract with a private or public entity to do this training. WIC Section 16200 clarifies that "department" means the State Department of Social Services. In fact, training for mandated reporters is provided regularly under agreement with the San Luis Obispo Child Abuse Prevention Council (SLO-CAP), headed by Lisa Fraser. Ms. Fraser responds to the Grand Jury's finding: "SLO-CAP has 'regularly provided' trainings for mandated reporters since 2001...It is my experience that CWS has shared the leadership role with SLO-CAP in promoting training for mandated reporters. Over the years the SLO-CAP office has received numerous referrals for mandated reporter trainings directly from CWS staff."

Grand Jury Finding 9 CWS reporting and coordination is not consistent among law enforcement agencies.

County Social Services Response: The Department agrees with this finding.

Recommendations

Recommendation 1 CWS should ensure that the appropriate law enforcement agency is immediately telephoned when CWS receives a report of child abuse or severe neglect.

County Social Services Response: The recommendation requires further analysis.

The Grand Jury does not explain why its recommendation includes only allegations of "child abuse or severe neglect," when the governing statute (PC 11165.6) includes a broader definition of child abuse and neglect.

The Department intends to schedule meetings with local law enforcement jurisdictions to determine if they wish to receive immediate telephone contact on every referral received by the Department, irrespective of the nature of the referral.

Following these meetings with law enforcement, the Department will enact procedures in accordance with the agreements. This will occur within six months from the date of publication of the Grand Jury's report.

Recommendation 2 CWS should ensure that SCARs are distributed to the appropriate law enforcement agency and the district attorney. The CWS Desk Guides and internal procedures should be corrected to reflect this.

County Social Services Response: The recommendation has been implemented in part. The Department will continue to focus on the appropriate and timely distribution of SCARs.

As we noted earlier, however, there is no Desk Guide that outlines SCAR distribution, so we are unclear about their comment suggesting that a Desk Guide be "corrected." The routing directions are on both the state issued SCAR form and the CWS/CMS generated SCAR form; we do believe it is necessary to repeat the instructions in a Desk Guide. Desk Guides and Protocols do focus on reminding staff to coordinate with others as well as reminding them to keep others informed.

Recommendation 3 CWS should complete and forward a written SCAR to the appropriate agencies within 36 consecutive hours.

County Social Services The recommendation requires further analysis.

The Department intends to schedule meetings with local law enforcement jurisdictions to determine if their preferences in fact have changed from what they earlier had requested: to wit, to receive hand-written SCARs only on immediate response cases, and to wait for the computer-generated SCAR on non-emergency cases.

Following these meetings with law enforcement, the Department will enact procedures in accordance with the agreements. This will occur within six months from the date of publication of the Grand Jury's report.

Recommendation 4 The law enforcement copy of a SCAR should be forwarded to the correct law enforcement agency.

County Social Services Response: The recommendation requires further analysis.

The Department intends to schedule meetings with local law enforcement jurisdictions to determine how this issue would best be addressed.

Following these meetings with law enforcement, the Department will enact procedures in accordance with the agreements. This will occur within six months from the date of publication of the Grand Jury's report.

Recommendation 5 CWS should attach the appropriate copy of the original SCAR form to CWS/CMS SCAR forms they distribute to law enforcement and the district attorney.

County Social Services Response: The recommendation requires further analysis.

The Department intends to schedule meetings with local law enforcement jurisdictions to address interagency issues related to the distribution of SCARs.

Following these meetings with law enforcement, the Department will enact procedures in accordance with the agreements.

Recommendation 6 CWS should notify mandated reporters of the outcome of the SCARs that they submitted.

County Social Services Response: The recommendation has been implemented.

The Department acknowledges, however, that its implementation of this expectation has been inconsistent. The Department will commence efforts to develop a Desk Guide that addresses this matter, and will distribute the Desk Guide upon its adoption.

This will occur within six months from the date of publication of the Grand Jury's report.

Recommendation 7 CWS should take a leadership role in promoting training for mandated reporters.

County Social Services Response: The recommendation has been implemented.

Pursuant to the provisions of the WIC, the Department contracts with the San Luis Obispo Child Abuse Prevention Council (SLO-CAP) for purposes of providing Mandatory Reporting training. We refer to SLO-CAP when we get requests for training from community members. Internally, we include mandated reporter training as part of the training package that is offered for our new employees. We use a video from the California Attorney General's Office, "Shadows to Light: A Guide to Child Abuse Reporting" as part of the curriculum.

Recommendation 8 CWS should review agreements on SCAR reporting with all law enforcement agencies within the county to ensure consistent practices and coordination on a regular basis.

County Social Services Response : The recommendation requires further analysis.

The Department intends to schedule meetings with local law enforcement jurisdictions to address interagency issues related to the distribution of SCARs.

Following these meetings with law enforcement, the Department will enact procedures in accordance with the agreements. This will occur within six months from the date of publication of the Grand Jury's report.

Recommendation 9 County inter-office mail should not be used for delivery of time-sensitive information.

County Social Services Response: The recommendation will not be implemented.

We have found county inter-office mail to be a reliable, efficient and cost-effective means of delivering time-sensitive information. Couriers deliver documents throughout the day at regular intervals. The use of USPS would delay delivery; the use of facsimile machines would compromise the confidentiality of information and would not be available for transmission of NCR forms, two-sided forms, or those requiring original signatures.

Findings

Finding 1 Documentation from other agencies concerning children's situations is not consistently represented by CWS in the reports and recommendations it submits to the court.

County Social Services Response: The Department wholly disagrees with this finding.

The statutory responsibility of the Social Worker is to consider all available information-including the positions of other agencies and professionals-and to provide the Court with a recommendation. In an adversarial process, conflicting opinions are the norm more often than the exception; this is why each party in the courtroom-including the child, the child's parents, the Department and, sometimes, the foster or adoptive parents-is represented by an attorney. Individuals disagree and offer conflicting recommendations to the Judge or Commissioner who ultimately must make the decision.

Some reports, e.g., any report submitted by the CASA, are provided directly to the Court and are not subject to "inclusion" by the Social Worker in the Department's report.

It is not the job of the Social Worker to offer a menu of choices for the Court; it is the job of the Social Worker to consider the menu of choices and to provide a recommendation as to what plan is in the best interests of the child.

Grand Jury Finding 2 CWS does not always include in its court reports opposing professional positions that could assist the court in making its rulings.

County Social Services Response: The Department disagrees partially with this finding.

Please refer to the response, above.

Grand Jury Finding 3 CWS has failed to effectively involve other agencies working with children in making placement plans and recommendations to the court.

County Social Services Response: The Department wholly disagrees with this finding.

The Department routinely consults with other agencies as a matter of standard operating procedure. The only exception to this procedure involves agencies that have not participated in the required training in confidentiality for multidisciplinary teams, required pursuant to WIC 10850.1. See additional comments under the associated recommendation, below.

Grand Jury Finding 4 CWS has made it difficult for other professionals who are working with the children to obtain information about the status of a case in the name of confidentiality.

Grand Jury Finding 5 CWS has refused to provide names of the children's legal representatives to mandated reporters in the name of confidentiality.

County Social Services Response: The Department agrees with this finding.

We would note for clarity that we refuse to provide this information "in the name of complying with State Law."

Grand Jury Finding 6 CWS has failed to effectively use the available expertise of professionals who specialize in working with developmentally disabled children and their families.

County Social Services Response: The Department wholly disagrees with this finding.

The Department has sought the assistance of expert staff, but cannot compel them to participate. Please see additional comments, below.

Grand Jury Finding 7 CWS social workers do not have adequate training and assessment skills to work with developmentally disabled children and their families.

County Social Services Response: The Department disagrees partially with this finding.

The Department cannot claim that its Social Work staff is expert in assessing the special needs of developmentally disabled children and their families. As a consequence, the Department relies on experts for assistance.

In this community, the Tri-Counties Regional Center is the primary resource for expert assistance in working with developmentally disabled children and adults. Over the years, the Department has attempted to engage the Regional Center to become more involved in children's cases, but with limited success:

- The Department has requested that TCRC provide specialized training to staff on the special needs and issues of developmentally disabled children. To date, TCRC has been unable to offer any training other than a brief presentation by Dr. Shira.
- The Department has extended several invitations to TCRC staff to participate in receiving Multidisciplinary Team confidentiality training; once we can document that individuals have received this training, we are able to share with them confidential information about cases that we share. Unfortunately, TCRC staff has been unable to attend any of these trainings to date.

As a consequence of their failure to attend multidisciplinary team trainings, our ability to interact with TCRC has been hampered.

In an e-mail to Omar Noorzad of TCRC on June 23, 2004, the Department repeated its request for specialized training and repeated its request that TCRC staff attend multidisciplinary team confidentiality training. To date, the Department has not received a response to those requests.

Still, it is not the case that staff does not receive training in working with developmentally disabled children. All Social Workers attend "Core" training through the Central California Training Academy. This training consists of 7 three-day modules designed specifically for Public Child Welfare Services Social Workers. Module V "Child Development and Behavior" focuses on "normal" child development as well as special developmental problems. Module VI "Placement and Reunification" includes the competency, "The worker can work in collaboration with caregivers to assess a child's need for special developmental, medical, educational, social, psychological, and other services; to identify resources; and to obtain services." This is just a sample of the competencies addressed in this series. We offered the complete series in our county last year in an effort to have all Social Workers trained.

Grand Jury Finding 8 CWS has failed to protect the confidentiality of foster families.

County Social Services Response: The Department wholly disagrees with this finding.

The finding has an internal inconsistency, in that it implies that foster families have an expectation of privacy or confidentiality. They do not, except as specifically provided by WIC Section 308.

In fact, foster families are expected to attend Team Decision Making meetings with birth parents. While some have been resistant or nervous about these face-to-face meetings, most have embraced the opportunity to learn more about the children for whom they are providing temporary care. And birth parents, certainly, appreciate the opportunity to meet the family that is providing care for their children.

Grand Jury Finding 9 CWS has removed children from foster homes and misrepresented the reasons to the court.

County Social Services Response: The Department wholly disagrees with this finding.

The Grand Jury offers no evidence in its support, and the Department is unaware of any independent evidence that would support the finding.

Grand Jury Finding 10 CWS has pursued the goal of placement with relatives in cases when the relatives were strangers to the child.

County Social Services Response: The Department agrees with the finding.

By pursuing the goal of placing children with relatives, the Department is maintaining compliance with Federal and State statute that require that children be placed with kin whenever possible, consistent with the safety and best interests of the children.

The Department wonders if the Grand Jury believes that non-related strangers are better placement options than relatives who are strangers. If this is the finding of the Grand Jury, the Department disagrees.

Grand Jury Finding 11 CWS has pursued the goal of reunification in cases where there is documentation that it was not in the best interest of the children.

County Social Services Response: The Department wholly disagrees with this finding.

Certainly, there are cases where reunification has not been successful. Social Workers, their Supervisors and Managers agonize over these choices prospectively, and even more so retrospectively when decisions have not worked out as hoped.

The Grand Jury seems to miss a fundamental point about Child Welfare: Every single case of Family Maintenance and of Family Reunification involves the goal of keeping children in a family in which abuse or neglect already has been substantiated to have occurred. Child Welfare, for the most part, is not a "One Strike; You're Out" system. It is intended to support parents and children in establishing and maintaining homes that are safe-even after abuse has occurred in that home.

Grand Jury Finding 12 CWS has inconsistently applied Best Practices to justify conflicting actions.

County Social Services Response: The Department wholly disagrees with the finding.

The Grand Jury provides no evidence in support of its finding, and the Department is not aware of any independent evidence that would support this conclusion.

The Department suspects that the Grand Jury does not understand either the genesis or the content of Best Practices guidelines. Best Practices flow from Senate Bill 933,

Chapter 311, Statutes of 1998, requiring the California Department of Social Services to make available best practice guidelines for the assessment of children and families to all county placing agencies and the courts. These guidelines provide information and direction regarding strategies and methods that promote high quality intervention and service delivery to children and families.

Senate Bill 933 also required the State to conduct a pilot project to test the effectiveness of an assessment protocol or process developed in collaboration with county agencies and other stakeholders. San Luis Obispo utilizes the "Structured Decision Making" protocol, or "SDM," a validated, research-based model and series of instruments that are standardize risk assessment, reducing the impact of social worker bias on cases.

Best Practices guidelines urge that Child Welfare systems be based upon five key principles: They are to be community-based, family-focused, solution-oriented, needs-driven and strength-based. In 1998, all San Luis Obispo Child Welfare Services staff participated in an exercise known as the SWOT process (Strengths, Weaknesses, Opportunities & Threats.) As a result, committees were formed comprised of staff from various levels and units; these committees had specific responsibilities:

Programs Committee: To develop a desired vision for the entire CWS system by October, 2000 that will include new initiatives as well as incorporate new programs that incorporate the Best Practice principles. Committee Chairs: Social Work line staff.

Communications Committee: To develop and/or adopt revisions to current protocol, which will enhance department-wide communication. Committee Chair: Social Work Supervisor.

Staff Support Committee: To address some of the day-to-day needs that required all staff input & ideas (e.g., county vehicle protocol, cellular phone usage/availability, activities/celebrations, support groups). Committee Chair: Social Worker IV.

Community Resources Committee: To present SB933 Best Practices and conduct the SWOT process to various county agencies/partners and community, and to make available comprehensive internal and external resources to all DSS staff. Committee Chair: Program Review Technician.

We noted at the time that the change process for Child Welfare Services was a protracted one. The Child Welfare Services program of El Paso County, Colorado, implemented an "overnight" change process that was effective but that came with a steep cost: Over half of that Department's staff left the Department in frustration.

The San Luis Obispo County Department of Social Services planned for systems' change by a process that incorporated multiple committees and encouraged staff participation. We took to heart the following quote from Seymour Sarason, in "The Predictable Failure of Education Reform:"

When one has no stake in the way things are, when one's needs or opinions are provided no forum, when one sees oneself as the object of unilateral actions, it takes no particular wisdom to suggest that one would be resistant.

This concept of engagement is fundamental not only to the Department's internal operations, but also to its approach to working with families and the community.

Grand Jury Finding 13 CWS allowed a vulnerable child to remain in a foster home where a tragedy occurred even though there were available beds in emergency care shelters in the area. CWS does not effectively use emergency care shelters in the county.

County Social Services Response: The Department wholly disagrees with this finding.

The bigger issue relates to the Grand Jury's confusion about "emergency care shelters," and their allegation that the Department does not effectively utilize emergency care.

In fact, the Department's approach to providing emergency shelter care is one that is being studied by other counties as they hope to replicate our success.

For years, the Department had a contractual relationship with a community-based organization for congregate shelter care. This contract mirrored the model that still is in use in many California counties, in which a congregate "receiving home" is utilized for the initial placement of children who are removed from their homes.

Our experience was not unlike those of other counties: Children routinely ran from the shelter. Police were called regularly to address disturbances within the shelter. Children reported incidents of being assaulted by other children in the shelter.

This wasn't the fault of the operator of the shelter. These are common problems in all congregate shelter programs-they are inherently bad models for addressing the wellbeing of children, whether on a temporary or permanent basis.

We knew something needed to be done to change a system that removed children from abusive environments only to place them in another potentially abusive environment.

To that end, the Department terminated its contract for congregate shelter care and, in its place, entered into a contract for a network of foster family homes, spread throughout the county, that would provide a 24-hour resource for children who had to be removed. This contract substituted family care for congregate care, and the results have been phenomenal: Since the change, reports of children running away, of police calls and of assault have plummeted.

We conclude that, in fact, we are "effectively using emergency care shelters in the county."

Grand Jury Finding 14 The CWS legal representative in Juvenile Court is a designated lawyer from the Office of County Counsel who is experienced in juvenile law and court proceedings. Private attorneys appointed to represent children often do not have comparable experience in juvenile law or case investigation.

County Social Services Response: The Department agrees with the finding.

Grand Jury Finding 15 CWS legal representatives have full and unrestricted access to the children's files that is not as readily available to all attorneys for the children. The CWS attorney also manages the court calendar.

County Social Services Response: The Department disagrees partially with the finding.

WIC Code Section 827 provides access rights to Departmental case files for children's attorneys; the Department does not attempt to "shield" cases or case information from those attorneys.

In cooperation with the Juvenile Court, the Department has engaged in a Court Improvement Project that has the goal of analyzing existing procedures and protocols, as well as recommending and implementing changes that will make the court processes more efficient and more responsive to community interests.

Recommendations

Recommendation 1 CWS should ensure that the positions and documentation from other agencies and professionals who are working with the children are represented in the reports and recommendations that are submitted to the court regarding those children.

County Social Services Response: The recommendation already has been implemented. See response to the associated finding, above.

Recommendation 2 CWS should proactively cooperate with other agencies and professionals working with a child in developing placement plans for the child.

County Social Services Response: The recommendation already has been implemented.

Placement team meetings, including representatives from Social Services, Probation, Mental Health, education, placement resources and others are held regularly to develop appropriate placement plans for children.

Team Decision Meetings (TDMs) involve not only professionals and agencies, as recommended by the Grand Jury, but also the birth parents and other persons requested by the birth parents to attend. These other persons may include neighbors, members of their extended family, clergy or others who are there to support and assist in making the best choices for the children. Foster and potential adoptive parents also may be present.

Recommendation 3 The issues and concerns highlighted in multi-agency meetings and discussions regarding children should be represented in documents submitted to the court.

County Social Services Response: This recommendation already has been implemented. Please refer to responses, above.

Recommendation 4 CWS social workers should receive basic training in working with developmentally disabled children, including assessment and communication skills.

County Social Services Response: This recommendation already has been implemented.

Recommendation 5 CWS social workers who are interviewing a developmentally disabled child should involve those who are familiar and have rapport with the child in the interview.

Response:

The recommendation has been implemented, pending cooperation from the Tri-Counties Regional Center.

Recommendation 6 A CWS policy should state that the placement of remaining children in a foster home should be re-evaluated when physical harm to a child has occurred in that home.

County Social Services Response: This recommendation already has been implemented.

The CWS Desk Guide on "Allegations Against Resource/Foster Parents" was adopted on January 15, 2003, and was made available to the Grand Jury during the course of its review. We conclude that the Grand Jury may have overlooked the information in the existing policy.

Recommendation 7 CWS should evaluate its use of emergency care shelters in the county to assure that they are being effectively utilized for their intended purpose.

County Social Services Response: This recommendation already has been implemented. See response, above.

Recommendation 8 CWS should provide the names and office information of attorneys appointed to represent children in Juvenile Court to mandated reporters who are actively working with the children.

County Social Services Response: The recommendation will not be implemented.

The recommendation by the Grand Jury is inconsistent with WIC Sections 827 and 10850.

Recommendation 9 Professionals who are directly involved with children who are the subjects of CWS and/or Juvenile Court cases should be included under the umbrella of confidentiality in order to receive information that would help them in serving the children.

County Social Services Response: The recommendation already has been implemented.

Within the permissible confines of WIC 10850, the Department shares information with other professionals if those professionals have successfully completed multidisciplinary team confidentiality training pursuant to WIC 10850.1.

Management style/communication

Findings

Grand Jury Finding 1 The CWS upper management's autocratic leadership and communication style increase the inherent job stress of social workers.

County Social Services Response: The Department partially disagrees with this finding.

The Department has demonstrated repeatedly that, when there is flexibility within the parameters of decisions, staff is encouraged to assist in designing the protocols and procedures relative to those decisions.

A key recent example relates to after-hours coverage: The Department is required to provide emergency response to allegations of child abuse/neglect on a 24-hour, 7day/week basis. Because of staff turnover and staff shortages, it became necessary to reevaluate the procedures by which this mandate was met. To that end, the Department established a committee of Social Work line staff, and asked this Committee to develop the protocols within the statutory parameters. They did so, and their recommendations were implemented.

In some areas, there is no room for flexibility. State and Federal law changes must be implemented, irrespective of whether we believe they make sense. Local budget restrictions have impacted our ability to apply resources to needs.

And, of course, there are some policies and practices about which the Department's Director and Deputy Director have indeed proven to be inflexible. We demand that individuals be treated respectfully; we demand compliance with the law. We believe in accountability, and that decisions that are made in direct contravention to management directives result in repercussions.

We believe that it is important to be impartial and consistent. We acknowledge freely that the Department of Social Services is not always a democratic institution: As managers, we sometimes are called upon to make difficult decisions that may be unpopular. At the same time, we guard against decisions that are arbitrary or whimsical, and focus instead

on doing what is best for the families and community we serve-sometimes, albeit rarely, to the detriment of the happiness of line staff.

Grand Jury Finding 2 Key decisions affecting social work resources and practice are made unilaterally from the top, with little discussion or input from those who must implement these decisions.

County Social Services Response: The Department wholly disagrees with this finding.

The Department has had a long-standing commitment to participatory decisionmaking and, as a matter of course, establishes committees that are engaged in developing procedures and protocols. When these procedures and protocols have been reduced to writing (typically, in "Desk Guides"), they are circulated in draft form for review and comment.

Following is a partial list of the committees that have been active in developing Child Welfare protocols and procedures:

Committee/Workgroup Meeting/Frequency/Participants

Redesign 1x monthly Mgrs, supvrs, chairs

Team Decision Making 2x mo (Tues.) all staff

Foster Care Recruitment & Retention 1x mo (Tues.) all staff Bldg Community

Partnerships 1x monthly all staff Foster Care Resource 1x monthly all staff Self Evaluation

1x monthly all staff Staff Support/Communicat] on 2x monthly all staff Implementation

Committee 1x monthly all staff -After Hours/Swing Shift 1/2x monthly all staff -

Differential Response 1/2x monthly all staff

-Family Group Decision Making 1x quarterly Mgrs., supvrs, SW's

Core Linkages Team 1x mo (Thurs.) Mgrs., supvrs, chairs Target Population/Client ID 2x

mo (Weds.) all staff Organizational Structure 2x mo (Weds.) all staff Relationship

Building 1x mo (Thurs.) all staff Coordinated Case Planning 2x mo (Fri.) all staff

Other

General staff meeting 1x mo (Weds.) all staff

Unit meetings 1x monthly unit staff Unit Supervisors DSS/Court Improvement 1x monthly all staff Domestic Violence 1x monthly Mgrs., supvrs, SW

Numerous workgroups to clarify & define CWS processes for Staff Development For example:

-Ind. Health Care Plan Supvr/SW

-Intake/Referral Supvr/S W

-Investigations Supvr/SW

-Reception SW/AA

-Protective Custody Supvr/SW

-DI/Continuing Units case load Supvr

-Placements all staff

-Specialized F/C Rates Supvr/SW

-Supervised Visitation CSA's

Anyone familiar with committees-particularly voluntary committees-knows that some persons participate in several committees while others decline to participate at all. For the most part, staff is free to choose whether to participate.

Grand Jury Finding 3 Communication at CWS is top down only, is not open to employee input, and is not appropriate for professional employees such as social workers. Upper management is neither accessible nor visible to many social workers.

County Social Services Response: The Department wholly disagrees with this finding. See above, and note the attached graphic representation of the Child Welfare Services Division's committee structure."

Senior management employees are present at monthly staff meetings and by telephone and e-mail. Many staff are comfortable in "dropping by" the offices of management employees, while others may feel less comfortable doing so. These facts notwithstanding, we suggest that the primary conduit of information between line staff and management is the Social Work Supervisor. We believe that the accessibility of Social Work Supervisors-whose job it is to coordinate the work of staff members and to ensure that communication is occurring efficiently and effectively-is far more fundamental to effective delivery of services than the accessibility of "upper management."

Grand Jury Finding 4 CWS upper management efforts have been directed more toward the state, county and grant funding sources than toward creating an open, supportive, and cooperative work environment.

County Social Services Response: The Department wholly disagrees with this finding. The finding is not supported by any evidence, and we are unable to ascertain the Grand Jury's intent.

If the finding may be interpreted to mean that CWS management has been focusing on achieving compliance with Federal and State statutory and regulatory requirements, and continues to do so despite the pressures that such compliance exacts upon the Department and its staff, then we agree with the finding. The Department does not have the authority to waive Federal and State law, irrespective of whether that law includes unfunded mandates or unilateral shifts in programmatic direction and policies.

Grand Jury Finding 5 Upper management has demonstrated that they are unwilling to engage in professional dialogue with employees.

County Social Services Response: The Department wholly disagrees with this finding.

The Grand Jury cites no evidence in support of this finding, and acknowledges that it interviewed only a fraction of the employees who were employed by the Department during the course of the Grand Jury's review.

In fact, the Department provides every opportunity for staff to engage in professional dialogue, whether through the committee structure, through monthly staff meetings, through e-mail, telephone, appointment or "drop-in." For those reticent to speak their opinions publicly, the Department makes available an anonymous "Employee Suggestion Box."

The Department has taken an additional step by urging the employees' collective bargaining agent to pursue the establishment of an expanded Shop Steward structure. A letter to this effect was sent to SLOCEA on February 20, 2004, with a copy circulated to all staff employed by the Department.'

Grand Jury Finding 6 Distrust exists between social workers and upper management at CWS.

County Social Services Response: The Department disagrees partially with this finding.

The Department acknowledges that distrust exists among some Social Workers, Social Work Supervisors and Managers. The Department is committed to working with all levels of the Department to address this issue and to resolve it to the extent possible.

Grand Jury Finding 7 The climate at CWS has led to social workers' anxiety that they may be fired without prior notice or placed on administrative leave without explanation.

County Social Services Response: The Department partially disagrees with this finding.

The Department does not dispute that some Social Work staff members may feel anxiety about their status within the Department. As the Department has focused its efforts on compliance with Federal and State law, it has worked to inform individuals of their progress in meeting expectations. Those who are in full compliance receive congratulatory notices; those who need to improve compliance are informed of the Department's concerns and afforded the opportunity to improve.

The Department is mindful of recent events that led to the discipline-including termination, suspension and demotion-of various employees within CWS. While each of these actions was contested before the Civil Service Commission-and the Department prevailed in each case-the Department remains sensitive to the impact of such actions upon those who were not the subjects of the disciplinary action.

Grand Jury Finding 8 The decision to remove local group homes as a placement option for children in the CWS system has resulted in additional travel, time, and expense.

County Social Services Response: The Department wholly disagrees with this finding.

The Grand Jury errs on several levels. First, the Grand Jury assumes that the Department has the authority to "open" or "close" group homes. This is not the case.

Group Homes are privately operated facilities, subject to licensing by the State of California. The Department has neither "opened" nor "closed" any Group Homes.

Secondly, the Grand Jury assumes that the Department has simply substituted out-of-county Group Home placements for what otherwise would have been in-county placements. This too is incorrect. In fact, the Department has worked in concert with the Departments of Mental Health and Probation to reduce the overall placements of children in Group Homes, in full cognizance of the damage done to children as a result of such placements.

Research is unequivocal in this matter: Group Homes are not good for children.

Consider the following, a representative sampling of research on the topic:

(S)tudies concluded that subjects who were in family foster care functioned better than children in group care in the following areas: they attained higher levels of education (Festinger, 1983); had a lesser likelihood of arrest or conviction group care population (Festinger, 1983); reported fewer substance use problems (Jones & Moses, 1984); had a lesser likelihood of dissatisfaction with the amount of contact they had with biological siblings (Festinger, 1983); and were less likely to move, to be living alone, to be single, head of the household parents and to be divorced (Festinger, 1983).

Adults formerly in family foster homes were also more likely to have close friends (Festinger, 1983) and stronger informal support (Jones & Moses, 1984). They also had more satisfaction with their income levels and more optimism about their economic future; and had more positive assessments of their lives (Festinger, 1983)...

Placement in group care settings is not an essential component of child welfare services systems of care for the vast majority of children.

Indeed, research conducted not only on group homes for abused and neglected children but also on group homes for delinquent children reach the same conclusion:

Many well-intended attempts to "reform" severely delinquent youths have had few positive effects and even negative outcomes. Typically, these programs place delinquent youth with other delinquents in settings such as "group homes." One alternative based on the new understanding of peer influence is the Therapeutic Foster Care program, a treatment model for serious and chronic delinquents (i.e., with an average of 14 arrests, including 4 for felonies). In this program, severely delinquent youths are placed in the homes of "therapeutic foster parents"--carefully selected couples who are specially trained in science-based procedures for working with these troubled youngsters and are given round-the-clock support as well. The combination of this family-based care with specialized treatment interventions is intended to create a therapeutic environment in the context of the family home.

Evaluations of the Therapeutic Foster Care program have shown that it is more effective in reducing delinquency than the usual placement in group homes. It is also significantly less expensive, and has fewer runaways and

fewer program failures. The Foster Family-based Treatment Association (<http://www.ffa.org>), developed under NIMH leadership, now has some 400 agency members across the U.S. who promote the use of this science-based and effective model. The research and its effective application seriously challenge the policies, programs and procedures that bring problem youth together.

The Department's Director confronted the issue of Group Homes on a statewide basis with his publication and distribution in January 2002 of a paper entitled, "Quitting Group Homes: The Case for Going Cold Turkey." This "call to action" resulted in significant debate in Child Welfare, and helped accelerate the move toward alternative models of care, including therapeutic foster care.

Grand Jury Finding 9 CWS upper management blocked access to information and discussion of a recognized psychiatric diagnosis. Additionally, CWS workers were not authorized to attend a professional conference because it may have included discussion of this diagnosis.

County Social Services Response: The Department partially disagrees with this finding.

Here, the Grand Jury refers to the psychiatric diagnosis "Reactive Attachment Disorder." The Department did not block "access to information and discussion" of Reactive Attachment Disorder; in fact, the Department engaged staff in a discussion of the misapplication by unqualified persons of this diagnosis to children who had suffered trauma.

"Reactive Attachment Disorder" or "RAD" has been utilized in an attempt to market dangerous "interventions" that, in several cases, resulted in the death of a child. The acolytes of RAD stress forcible holding and binding of children, and suggest that traumatized children are prone to lying and fantasizing about their abuse.

These adherents to the RAD diagnosis try to convince parents that they are the victims of children, and encourage the labeling of children (calling them "RADs" or "RADishes") that deflects attention from the children's true emotional needs.

We have been unable to find one mainstream mental health professional or psychiatrist who believes that Reactive Attachment Disorder is a widespread disorder that warrants significant attention by Social Work staff.

In fact, the American Academy of Child and Adolescent Psychiatry has offered this warning:

Some therapists have used so called "rebirthing techniques" or "compression holding therapy" as treatments. These and other interventions that include physically coercive methods like adults forcibly holding a child to improve attachment, using hunger or thirst, or forcing food or water upon the child, can be dangerous. At least six documented child fatalities have occurred related to the use of these methods.

There is no scientific evidence that such coercive interventions are effective. The growing number of deaths associated with these practices demonstrates their danger. These techniques also violate the fundamental human rights of the children subjected to them. The AACAP therefore urges that these coercive, dangerous and ineffective practices be discontinued.'

Persons seeking additional information on "Reactive Attachment Disorder" should consult the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, as well as websites specializing in exposing medical quackery.

It is true that the Department would not authorize payment for staff to attend a conference that included a focus topic on "Reactive Attachment Disorder." The Department did not prohibit staff from attending on their own time, at their own expense.

Grand Jury Finding 10 CWS employee efforts to formally communicate problems were not accepted by the CWS Deputy Director. CWS employee attempts to communicate concerns with the DSS Director have not resulted in meaningful change.

County Social Services Response: The Department partially disagrees with this finding.

The Grand Jury does not provide evidence in support of its finding that employee efforts to communicate problems were "not accepted" by the CWS Deputy Director. In fact, it has been the experience of the Department that employees show little reticence in conveying their opinions.

Nor does the Grand Jury describe what "meaningful change" might include. If "meaningful change" were construed to mean a relaxation of the Department's efforts to achieve compliance with State and Federal law, then the Grand Jury would be correct.

Workload

Grand Jury Finding 11 The unrecognized costs to grants received by CWS increase administrative and social worker responsibilities.

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County Social Services Response: The Department may agree, wholly disagree or partially disagree with this finding.

The Department has difficulty making sense of the language in this finding, and consequently is at a loss to respond.

If the Grand Jury suggests that the receipt of grant funds and the attendant responsibility of achieving contracted outcomes sometimes impacts costs in other areas, the Department concurs. If the Grand Jury suggests that administrative and social worker responsibilities can change or increase as a result of accepting grant funds for particular activities, the Department concurs.

If the Grand Jury suggests that the Department applies for and accepts grants in the belief that activities of Departmental staff will not change, the Department wholly disagrees.

Grand Jury Finding 12 Special initiatives and grants redirect social worker efforts toward compliance activities and have the effect of adding work without adding resources to social workers. CWS grant money is not-used to add social worker positions.

County Social Services Response: The Department wholly disagrees with this finding.

In fact: Grant funds have sustained CWS staffing during a period that otherwise might have resulted in staff reductions.

Grand Jury Finding 13 The Redesign implementation adds meetings and other tasks to the workload of social workers.

County Social Services Response: The Department agrees with this finding.

Redesign, as well as other Federal and State mandates, cannot be implemented effectively without the engagement and input of Social Work staff. In the specific case of Redesign, however, the Department was able to compete for funding as a "Cohort 1"-or "Early Implementing"-county. This brought a minimum of \$2.85 million in revenue to the county to implement program changes that other counties likely will be implementing within their existing allocations.

Grand Jury Finding 14 The cumulative effect of the DSS hiring freeze, the elimination of permanent and temporary positions, and not filling in for social workers on leave, has resulted in increased workloads of social workers and supervisors.

County Social Services Response: The Department agrees with this finding.

The Department believes that it is important to note, however, that the "DSS hiring freeze, the elimination of permanent and temporary positions and not filling in for (staff) on leave" has had impact not only on CWS but also on all other divisions of the Department of Social Services, of which CWS represents only one slice.

In keeping with its dedication to maintaining staffing for CWS, the Department specifically excluded Social Work positions from the list of positions eliminated midyear, at the January 13, 2004 Board of Supervisors meeting.

Note that the Grand Jury erred factually in its Report when, on page 65, it states the following:

When the DSS director explained the CWS budget shortfall to the Board in January 2004, he also requested authorization to further reduce CWS by 18.5 positions and eliminate all temporary positions. This request was approved.

Apparently, there are no plans to use any of the \$2.85 million the county will receive under the early implementer Redesign grant to add social workers or staff.

- The Grand Jury mistakenly refers to the Department's revenue shortfall as a "CWS budget shortfall." In fact, as a review of the information related to that Board item would have revealed, the revenue shortfall had virtually nothing to do with Child Welfare Services.
- The Grand Jury mistakenly states that the Department "reduce(d) CWS by 18.5 positions." In fact the reductions were absorbed almost entirely by divisions outside of CWS, and that no CWS Social Work positions were affected.
- The Grand Jury might have considered reviewing the budget for Redesign; such a review would have revealed that the bulk of the funds received by the County has been used to support and maintain Social Work staff.

Grand Jury Finding 15 With the current workload requirements, it is unrealistic for social workers to be expected to complete their work within the hours of a normal work week.

County Social Services Response: The Department partially disagrees with this finding.

In comparison to other counties and in comparison to the State's caseload standards, the Social Work staff of San Luis Obispo County is not carrying a disproportionately high caseload. Even so, the Department acknowledges that the State's caseload standards are unrealistic, and continues to work with the State and with our legislative delegation in an attempt to implement the results of the Legislatures caseload study. **To** that end, the Director of the Department has authored an article that will appear in a statewide publication in October, drawing attention to the issue of underfunding in Child Welfare Services.

Grand Jury Finding 16 Some CWS social workers are working above their job classification.

County Social Services Response: The Department wholly disagrees with this finding.

The Grand Jury offers no evidence in support of this finding. Individuals who believe that they are performing duties inconsistent with their classification have access to a process by which their concerns may be reviewed.

No Social Worker has chosen to invoke that process.

Grand Jury Finding 17 No social worker job analysis has been conducted to reflect the current technology and the work requirements under the Redesign.

County Social Services Response: The Department wholly disagrees with this finding.

The State of California commissioned an independent study of Social Work caseloads, pursuant to 1998's SB2030 (Costa); this study determined that caseloads would have to be reduced by as much as one-half in order to provide appropriate levels of service to children and families in Child Welfare, yet State leadership still has not enacted the study

results. Child Welfare caseloads continue to rise, even as funding for social worker staffing is reduced.

The Department remains committed to advocating for the implementation of the study's findings.

Training

Grand Jury Finding 18 Newly-hired CWS social workers are not given adequate time for caseload and procedures orientation.

County Social Services Response: The Department partially disagrees with this finding.

We agree that the amount of preparatory education and training are insufficient to provide new Social Workers with the complete and comprehensive preparation for the job that only experience can provide.

Nevertheless, the Department has taken steps to improve new worker orientation and training. In 2002, in response to a staff recommendation to establish a training unit, a Social Worker was moved into the Social Worker Trainer position. One of the tasks for this Social Worker was to work with supervisors and line staff in developing comprehensive induction training for all newly hired social workers. This task was completed in early 2003. The new hire curriculum includes a basic orientation to Child Welfare and outlines a progressive caseload increase to 100% over a 3-month period. Due to budget constraints, when this Social Worker left, her position was not refilled. A staff group continues to look at what is needed for a new Social Worker to succeed. We have not hired any new social workers during this period.

Grand Jury Finding 19 Neither relevant training nor transition time is provided for CWS employees when they are reassigned to new work units or positions.

County Social Services Response: The Department partially disagrees with this finding.

The Social Worker Trainer position described above was used to assist in this function. Since that position has been vacant, the new supervisor assesses need, conducts and coordinates training. Staff Development has assisted when requested by the supervisor.

Grand Jury Finding 20 Relevant training and continuing professional education for CWS social workers is limited.

County Social Services Response: The Department partially disagrees with this finding.

CWS Social Workers attend the Central Academy "Core" Modules. This training is given to all Public Social Services Social Workers throughout the state to meet the statewide standards of competencies needed to be a public CWS social worker. In addition, each year our Department offers opportunities for training that meet the licensure requirements of many of our staff. Examples of trainings that were offered last fiscal year include

Ethnic Parenting Practices and Domestic Abuse: Dynamics and Intervention. As stated before, we offered, on-site in our county, a complete series of the Core Modules and the Foundations of Supervision Modules to ensure that all of our staff has this important foundation. In addition to these "professional" trainings we train on new procedures and processes as we implement the required changes for AB636.

Grand Jury Finding 21 There is no provision for training social workers or managers for: a) the culture change required by the Redesign, and b) team dynamics to support the demands of CWS requirements for teamwork.

County Social Services Response: The Department wholly disagrees with this finding.

Since 1998, the Department has educated/trained staff on the cycle of change, team processes and conflict resolution techniques. As part of the change process, all CWS staff participated in a SWOT process to identify the strengths, weaknesses, opportunities and threats within the organization. As a result of the SWOT, several staff driven committees were formed to address the identified issues and needs. These committees included but were not limited to ones to address communication and staff support. This participatory process has allowed numerous staff recommendations to be implemented over the years.

Examples of social worker, supervisor and manager training on culture change, conflict resolution and team dynamics include an all day interactive event for all CWS staff, supervisors and managers titled "Together We Can" and "Leadership for High Performance" that was offered to all DSS managers and CWS supervisors. These trainings were led by outside professionals from EMQ for "Together We Can" and the American Public Human Services Association for "Leadership for High Performance." In addition, DSS staff has attended the Covey 7 Habits training offered through the County Employee University (EU).

CWS/CMS

Grand Jury Finding 22 The CWS/CMS can be an efficient and effective application of technology for purposes of case reporting and documenting, and for identifying areas where there is need for improvement in caseload management.

County Social Services Response: The Department agrees with this finding.

Grand Jury Finding 23 Social worker notes and reports can be, and are, monitored by supervisors and management using the CWS/CMS.

County Social Services Response: The Department agrees with this finding.

Grand Jury Finding 24 The potential for abuse of CWS/CMS includes supervisors and managers changing social worker notes and reports, and upper management's scrutiny of social worker inputs to find cause for disciplinary actions.

County Social Services Response: The Department disagrees partially with this finding.

The Grand Jury offers no evidence in support of its suggestion that supervisors and managers may have any motivation to "chang(e) social worker notes and reports," much less any evidence that any supervisor or manager has actually done so.

In fact, the CWS/CMS system contains an audit trail functionality that displays what changes were made to a case, when the change was made and who made the change. Standard operating procedure dictates that a case must gain supervisory approval and is often worked on by many staff, including legal clerks.

There is potential for abuse, but only if the Social Worker shares his/her password with someone else. Staff is instructed not to divulge passwords to others, just for this purpose of maintaining integrity of the audit trail. Staff is required to sign that they understand all of the County and Department rules governing system security and appropriate use of county equipment and data. These rules are available through our county intranet.

Supervisors are required to approve various actions within CMS in order for the action to be final. This feature is built into the system to reinforce the expectation that supervisors are monitoring the worker's actions. Supervisors and managers would be derelict in their responsibilities if they did not monitor worker performance and take appropriate action when the worker was not meeting standards.

The Department concurs that information gleaned from case notes, narratives and reports can provide a basis for disciplinary action, just as it may provide a foundation for positive reinforcement.

Grand Jury Finding 25 The CWS/CMS tracking capacity is being used to measure social worker performance in terms of reports, case notes and documentation entered into the system rather than evaluating social worker effectiveness in working with children and families.

County Social Services Response: The Department partially disagrees with this finding.

The Department cannot agree with the "logic" used by the Grand Jury in its construction of this finding, in which it suggests that social worker performance "in terms of reports, case notes and documentation" is in conflict with social worker effectiveness.

First, it must be noted that the CWS/CMS system was implemented statewide in 1997 and represents a State and Federal mandate. Part of the duty of the Department is to ensure that the County meets the mandates of its State and Federal subventors.

Second, the Department notes that the information in the CWS/CMS supports social worker effectiveness. The law requires that the Social Worker have face-to-face contact

with a child at least once every 30 days, that court reports be completed on time and that children remain subject to the provisions of the dependency laws for a limited period of time before plans for the children's permanency are established. The CWS/CMS prompts for these activities, records them and provides a record that demonstrates not just compliance with a computer system but compliance with the law. Compliance with the law leads to improved case outcomes.

Financial issues

Grand Jury Finding 26 Financial decisions have become a source of distrust within CWS.

County Social Services Response: The Department agrees with this finding.

Grand Jury Finding 27 DSS/CWS has not had an independent financial audit in at least ten years.

County Social Services Response: The Department wholly disagrees with this finding.

The Department is subject to an audit by an independent, "outside" auditor every single year. The most recent audit, conducted by Bartig, Basler & Ray, included a review of time study documentation, expenditure reports and reimbursement claims.

The Grand Jury was informed of this fact not only by the Department's Director but also by the County's elected Auditor.

In addition to this annual financial audit, the County Auditor reviews expenditures and claims on a flow basis and the State audits each quarterly claim submitted by the Department.

Grand Jury Finding 28 The county share of the 2003-2004 DSS budget was amended upward to make up for the failure of the state to reimburse for "overmatch" expenditures. DSS/CWS is under pressure to reduce its costs so as not to increase further the county share of its budget.

County Social Services Response: The Department agrees with this finding. In agreeing, however, the Department notes that factors in addition to "overmatch" contributed to the revenue shortfall. The Department also erred in its calculations of revenue to be received from Realignment funds and from other Federal and State sources.

Grand Jury Finding 29 Placing children in lower cost placements is one way to keep down the county share of the DSS budget.

County Social Services Response: The Department agrees with this finding, but with a cautionary note.

It never has been the position of the Department that placement decisions for children ought to be based on cost, and the Department would not agree with the Grand Jury if this is a recommendation inherent in this "finding." Similarly, the Department rejects any implication by the Grand Jury that placement costs ever have affected individual placement decisions.

Recommendations

Recommendation 1 Upper management at CWS should accept responsibility for the dysfunctional work environment at CWS and commit to creating a more worker-friendly professional organization.

County Social Services Response: The recommendation has been implemented.

The Department continues its efforts to work with staff at all levels of the Department in engaging them in participatory management. Through use of committees, regular staff meetings and the pursuit of an expanded Shop Steward structure, the Department continues to build an infrastructure of communication that ensures that all are involved and informed.

Recommendation 2 All CWS supervisors and managers should receive training in practices designed to encourage open and trusting communication.

County Social Services Response: The recommendation has been implemented.

All CWS Social Worker Supervisors attend the Foundations of Supervision training offered by the Central California Training Academy. This training consists of 4 three-day modules which look at 5 supervisory themes: 1) Establishing expectations; 2) Applying authority; 3) Cultivating cultural competence; 4) Tending to teams, and; 4) Parallel process.

The CWS managers have participated in the Training Academy's course for managers. In addition, five CWS supervisors participated in the pilot Supervisory Academy that was offered by the County's Employee University last year. Part of this Academy focused on communication, influence, conflict resolution/mediation as well as team building. The Department has been committed to sending staff to the Covey "7 Habits" training sponsored by the County.

In addition to these trainings and others, the Communications and Staff Support Committees proposed several recommendations that were implemented to encourage open and trusting communication. These include weekly supervisor meetings, bi-monthly/monthly unit meetings, monthly CWS general staff meetings (which include staff kudos, announcements, committee updates and training), an employee suggestion box with the suggestions shared at the monthly staff meetings, and minutes of meetings sent out to all staff.

Recommendation 3 CWS management should develop and implement practices that will create positive performance feedback and incentives, and reverse the environment of fear and reprisal.

County Social Services Response: The recommendation has been implemented in part, and requires further analysis for complete implementation.

The Department notes that it provides positive feedback to staff in the form of Performance Evaluations, e-mail and recognition at staff meetings. The Department also has been engaged in revising the Performance Evaluation forms so that they may better represent the expectations of staff in the context of new outcome requirements.

The Department also recognizes that a series of disciplinary actions that occurred over the last 18 months contributed to a chill within the ranks of the Social Work staff. While it would have been helpful to communicate with staff the exact circumstances that led to those disciplinary actions, such communication would have been inconsistent with the protection of the affected employees' right to privacy.

Recommendation 4 All CWS supervisors and managers should receive training in practices designed to bring about a change in organizational culture that will be conducive to implementing requirements of the Redesign.

County Social Services Response: The recommendation has been implemented.

In addition to the trainings already mentioned, a staff-recommended and developed workshop called "Values, Beliefs, Attitudes" was provided to all staff to help break down some of the negative perspectives among staff, supervisors and managers. The Department will continue to utilize the technical assistance available through the various grants to develop processes and trainings that assist staff; additionally, the Department will continue to work with the Training Academy and UC Davis to offer trainings that enhance its ability to implement the changes needed for Redesign. Finally, the Department will continue to encourage participation in the courses offered by the County's Employee University.

Recommendation 5 CWS social workers should be provided training in coping with stressful workplaces and the stress related to organizational change.

County Social Services Response: The recommendation requires further analysis.

In addition to the various trainings the Department has had in the past and the training planned for this upcoming year (4 sessions of "Wellness in the Workplace"), it has long contracted with a local therapist to hold separate monthly times for line staff and supervisors to discuss issues/solutions in a confidential setting.

Unfortunately, the contract with this local therapist was not approved for the 2004/2005 Fiscal Year. As a consequence, the Department needs to examine the options available-including the established Employee Assistance program-to determine how staff needs may be met. This examination will take place prior to December 22, 2004.

Recommendation 6 CWS management and employees should participate together in training, facilitated by an independent professional trainer, designed to constructively confront the distrust in the workplace and begin a process of team building.

County Social Services Response: The recommendation has been implemented.

In May of 2001, the "Together We Can" day was held for this express purpose. Three outside professionals from Eastfield Ming Quong facilitated the discussions that occurred that day. All levels of CWS staff participated in identifying needs and concerns related to Child Welfare Services and the ongoing changes that were taking place; these identified needs and concerns were addressed by the Staff Support Committee to ensure that all items had been addressed.

The Department recognizes that the building of trust and team is an on-going process. It is the Department's belief that morale is lifted and teamwork is enhanced when staff works successfully toward common goals.

One common goal in which all levels of CWS staff-including Social Workers, Social Work Supervisors and managers-have engaged is the collective response to this Grand Jury Report. CWS staff at every level has identified errors and misconceptions that, collectively, we wish to identify and resolve. To this end, the Grand Jury's Report had a positive impact on the Department.

Recommendation 7 Information that is part of a professional knowledge base, such as recognized psychiatric diagnoses, should be available and discussions encouraged at CWS. Management should not remove or disallow this information or curtail discussions.

County Social Services Response: The recommendation has been implemented.

The Department notes that it does not discourage the acquisition and application of knowledge from "a professional knowledge base;" in the instant matter, the information was not derived from such a professional base, but from adherents to a bizarre, fringe philosophy that in its application produced the result of dead children.

Recommendation 8 CWS should reallocate its training resources to include the following areas for social workers:

- a) relevant field training for new social workers
- b) continuing professional training for all social workers on an annual basis
- c) training in team participation and team management for social workers

d) community resources identification, coordination, and utilization

County Social Services Response: The recommendation has been implemented.

The Department has been aware for many years of the need to build up support for CWS. Over the past few years, Staff Development and Automation have reallocated resources to support CWS. In fact, resources have reallocated to CWS to the point that far fewer resources now are being provided in support of Participant Services staff.

Some highlights of resources already in place are: CWS New Hire Training Plan which includes the coordination of the Core Module learning with field work support; Department-wide Linked Services which includes ongoing meetings with partner agencies to enhance coordination and service to families; ensuring that many of the trainings offered include the ability to earn BBS/BRN credit (some of the courses that include this for the upcoming year include "Impact of Domestic Violence on Child Development", "Casework with Mentally Ill Clients" and "Working with Substance-Abusing Parents"); development of Desk Guides to clarify policy and support staff in delivering consistent, quality services; presentations from community groups regarding resources at the monthly all staff meetings; process improvement activities related to Foster Care, including licensing/approval that not only save staff time by clarifying roles and enhancing teamwork but result in better outcomes for children and families.

Staff Development and Automation staff express the concern that the Grand Jury offered findings and recommendations related to their respective spheres of responsibility without having contacted anyone within those spheres. As one member of the Staff Development Division commented in regards to the Grand Jury's findings, "The outstanding contribution and dedication of this staff has been totally ignored."

Recommendation 9 Social workers should be involved in discussions of procedures, grant applications, and programs that will impact their work and/or resources available to them.

County Social Services Response: The recommendation has been implemented.

Please review earlier responses for a list of the committees that are engaged in these discussions.

Recommendation 10 Social workers assigned to a case should be involved in management decisions that alter any notes, reports, or recommendations on that case.

County Social Services Response: The recommendation has been implemented. It is declaratory of existing policy.

Recommendation 11 DSS should develop a protocol that defines appropriate managerial and supervisor use of the CWS/CMS system and information. It should specify that violations of the protocol are grounds for disciplinary action. The protocol

should be developed with input from line social workers and should be disseminated throughout CWS when it is complete.

County Social Services Response: The recommendation has been implemented.

County and departmental protocols for use of automated systems and confidential data already are in existence. All employees must sign that they understand the rules and consequences, which can include disciplinary action. Again, the Department notes that this information was readily available to the Grand Jury from multiple sources within the Department, had the Grand Jury pursued an inquiry.

Recommendation 12 CWS management should engage social workers in discussions of the appropriate use of group home placements and the assessment of the need for group homes for children in the CWS system. These discussions should include consideration of reinstating some group homes in the county.

County Social Services Response: The recommendation will not be implemented because it is not warranted and it is not reasonable.

Staff already has been engaged in discussions of family maintenance, the placement of children in out-of-home care and the appropriate use of group home placements. The Department's position is clear: Out-of-home placement is to be avoided on principle, and Group Home placements are to be considered only as an absolute last resort.

In taking this position, the Department is aligned with organizations including at least the following:

- The United States Department of Health & Human Services
- The California State Department of Social Services
- The National Institute of Mental Health
- The Office of Juvenile Justice and Delinquency Prevention
- The Annie E. Casey Foundation
- The Children's Services Network of San Luis Obispo County
- The San Luis Obispo County Probation Department
- The Family Care Network of San Luis Obispo
- The Surgeon General of the United States of America
- The Brookings Institution
- Child Welfare League of America

We're aligned with these institutions both because we think they're right but also, in the case of the Federal and State Governments, because they are directing us to adopt this position.

The Department recognizes that there are advocates both within San Luis Obispo County and elsewhere who disagree with this position. A recent study conducted by Caliber Associates, for example, examined the effects of CASA representation on dependent children of the court; it concluded that CASA representatives tend to have a bias against

the birth parents of children, preferring foster care to family reunification. This bias is not inconsistent with the Department's observations of the local CASA program.

The Department proposes to act in the best interests of children. The mandates of Federal and State statutes direct us to focus our efforts on strengthening families, to reduce out-of-home care and, when out-of-home care is necessary, to place children in the least restrictive setting.

Fortunately, the research fully supports the mandates.

Recommendation

Recommendation 1 We strongly recommend that the San Luis Obispo County Board of Supervisors undertake a thorough evaluation of the leadership of CWS, specifically including the DSS Director and the CWS Deputy Director. The evaluation should be completed by a private, independent, and credible expert in the management of social service organizations.

The evaluation should focus on upper management's effectiveness in communicating with the employees and in creating a positive working environment, and should include input from all CWS employees. The results of this evaluation should be reported directly to the Board of Supervisors and should include specific recommendations as applicable. Unless and until the Board becomes directly involved, the likelihood of further deterioration of the situation at CWS is high.

County Social Services Response: The Department defers action on this recommendation to the Board of Supervisors.

The Department would note again, however, that CWS represents only a fraction of the Department of Social Services. Any "evaluation" such as the one contemplated by the Grand Jury would be of more value if it included a more global view of the Department, including Participant Services, Adult Services, Automation, Staff Development, Personnel, Fiscal and Administrative Services. These Divisions were bypassed by the Grand Jury; it would be unfortunate if they were bypassed a second time.

The Department also offers a caution about these kinds of exercises. Any time an organization begins to replace its windows with mirrors, and focuses its efforts on "self-examination," it runs the risk of misplacing its priorities. We are not here to serve ourselves; we are here to serve the community that lies on the other side of those windows.

As the Director of the Department of Social Services, I still believe that job satisfaction is best derived from doing good work, and being provided the resources with which to do that work. We in San Luis Obispo County's Child Welfare Services system are fortunate to be recognized for the work we already have done, and are doubly fortunate to be given the opportunity to continue improving Child Welfare.

From this, we will derive job satisfaction, knowing that we have "promises to keep, and miles to go before we sleep."